

ARTICLE 1117

Food Vending Machines

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CROSS REFERENCE

Food handlers - See HLTH. Art. 1115

1117.01 DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this Article:

(a) "Vending Machine" shall mean any self-service device offered for public use, which, upon insertion of a coin, coins or tokens, or by any other means, dispenses unit servings of food or beverage, either in bulk or in package, without the necessity of replenishing the device between each vending operation.

(b) "Machine location" shall mean the room, enclosure, space or area where one or more vending machines are installed and operated.

(c) "Commissary" shall mean commissary, catering establishment, restaurant or any other place in which food, beverages, ingredients,

containers or supplies are kept, handled, prepared or stored, and directly from which vending machines are serviced.

(d) "Food" shall mean any raw, cooked or processed edible substance, beverage or ingredients used or intended for use in whole or in part for human consumption. Specifically excluded herefrom are cigars, cigarettes, chewing gum and bottled soft drinks, canned and pre-mix soft drinks, crackers, pretzels, chips, candy bars and cookies. Pre-mix is one hundred cup stainless steel can or tank sealed at the plant. (Ord. 4017 -Passed 7/5/00)

(e) "Readily perishable foods" shall mean any food, beverage or ingredient consisting in whole or in part of milk, milk products, eggs, meat, fish, poultry or other food capable of supporting rapid and progressive growth of microorganisms which can cause food infections or food intoxication. However, products in hermetically sealed containers processed by heat to prevent spoilage and dehydrated, dry or powdered products so low in moisture content as to preclude development of microorganisms are excluded from the terms of this definition.

(f) "Hot liquid, food or beverage,, shall mean food or beverage the temperature of which, at the time of service to the consumer, is at least 150 degrees Fahrenheit.

(g) "Single service article" shall mean any utensil, container, implement or wrapper intended for use only once in the preparation, storage, display, service or consumption of food or beverage.

(h) "Product contact surface" shall mean any surface of the vending machines, appurtenances or containers which come into direct contact with any food, beverage or ingredient.

(i) "Adulterated" shall apply to any food:

- (1) If it bears or contains any poisonous or deleterious substance which may be injurious to health;
- (2) If it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by regulations, or in excess of such tolerance if one has been established;

- (3) If it consists in whole or in part of any filthy, putrid or decomposed substance, or if it is otherwise unfit for human consumption.
- (4) If it has been prepared, packed or stored under unsanitary conditions whereby it may have become contaminated with filth or rendered injurious to health;
- (5) If the container is composed in whole or in part of a poisonous or deleterious substance which may render the content injurious to health.

(j) "Misbranding" shall mean the use of any written, printed or graphic matter upon or accompanying products or containers dispensed from vending machines, including signs or placards displayed in relation to such products so dispensed, which are false or misleading or which violate any applicable local, State or Federal labeling requirements.

(k) "Bureau of Health" shall mean the Bureau of Health of the City or any authorized agent or representative thereof having jurisdiction within the limits of the City.

(l) "Operator" shall mean any person who, by contract, agreement or ownership, takes responsibility for the furnishing, installing, servicing, operating or maintenance of one or more vending machines.

(m) "Person" shall mean any individual, partnership, corporation, company, firm, institution, trustee, association or any other public or private entity.

(n) "Employee" shall mean any operator or any person employed by him who handles any food, beverage, or ingredient to be dispensed through vending machines, or one who comes into contact with food, contact surfaces of containers, equipment, utensil or packaging material used in connection with a vending machine operation, or one who otherwise services or maintains one or more of such machines.

(o) "Approved" shall mean approved by the Bureau of Health having jurisdiction within the City.

(Ord. 1175 Art. I §A. Passed 12/4/62.)

1117.02 OPERATOR'S LICENSE REQUIRED.

No person shall engage in the operation of one or more vending machines within the City who does not possess a currently valid operator's license obtained from the Bureau of Health. (Ord. 1775 §2. Passed 12/4/62.)

1117.03 APPLICATION.

Any person desiring to operate one or more vending machines within the City shall make application in writing to the Bureau of Health on the forms provided by the Bureau. Such applicants shall supply the following information:

(a) The applicant's full name, residence, post office address and whether such applicant is an individual, firm or corporation; if there is a partnership, the names of the partners, together with their addresses;

(b) The location of the commissary or commissaries and of other establishments where supplies are kept and where vending machines are repaired or renovated;

(c) The identity and the form of the products to be dispensed by the vending machines and the number of each type vending machine in his possession, together with the address where each machine is or will be located;

(d) The signature of the applicant or applicants.

(Ord. 1775 Art. II §A. Passed 12/4/62.)

1117.04 INSPECTION; ISSUANCE OF LICENSE.

Upon receipt of such application, the Bureau of Health shall make an inspection of the commissary, servicing and transport facilities and the vending machine to determine compliance with the provisions of this

Article. A numbered operator's license shall be issued to the applicant by the Bureau of Health after compliance by the operator with the provisions of this Article. Such license is not transferable. (Ord. 1775 Art. II §A. Passed 12/4/62.)

1117.05 DISPLAY OF LICENSE NUMBER.

The operator's license number, of a size and style approved by the Bureau of Health, shall be conspicuously displayed on each vending machine operated by him. (Ord. 1775 Art. II §A. Passed 12/4/62.)

1117.06 LOCATION OF MACHINES.

In order to hold and retain an operator's license, the operator shall file with the Bureau of Health a list of all vending machines operated by him, their location and the addresses of all commissaries or other establishments from which his machines are serviced. The operator must inform the Bureau of Health weekly of any changes and/or additions to such list. Further, the operator shall notify the Bureau of Health of any changes in the operation involving new types of vending machines or the conversion of existing machines to dispense products other than those for which the license was issued. (Ord. 1775 Art. II §A. Passed 12/4/62.)

1117.07 SUSPENSION OR REVOCATION OF LICENSE.

(a) An operator's license may be temporarily suspended by the Bureau of Health upon violation by the license holder of any of the provisions of this Article or may be revoked upon serious or repeated violations of such provisions.

(b) Whenever a representative of the Bureau of Health finds grossly unsanitary or other conditions involving the operation of any vending machines or commissary which, in his opinion, involve a substantial hazard to the public health, the Bureau of Health, without notice or hearing, may issue a written order to the operator citing the existence of such conditions and specifying corrective action to be taken and, if deemed necessary, requiring immediate discontinuance of such operation. Such order shall be effective immediately and shall apply only to the vending machine, commissary or product involved.

(c) Any operator to whom such order is issued shall comply therewith or, upon written petition to the Bureau of Health, shall be afforded a hearing as soon as possible. When necessary corrective action has been taken, and on the request of the operator, the Bureau of Health shall make a reinspection to determine whether the operation shall be resumed.

(d) After any hearing held under the provisions of this Article, the Bureau of Health shall sustain, modify or rescind the order considered in the hearing. (Ord. 1775 Art. II SB. Passed 12/4/62.)

1117.08 REINSTATEMENT OF LICENSE.

Any operator whose license has been suspended may at any time make application for the reinstatement of the license. Within ten days after a receipt of a written application, accompanied by or including a statement signed by the operator to the effect that the violated terms of this Article have been complied with, the Bureau of Health shall make a reinspection. If the applicant is again complying with the terms of this Article, the license shall be reinstated. (Ord. 1775 Art. II §C. Passed 12/4/62.)

1117.09 FEES.

The applicant for a license shall deposit with the City Treasurer at the time of the filing of the application license fees as follows:

- | | |
|--------------------------------|----------------|
| (a) Operator's license | - \$ 1.00 |
| (b) Commissary inspection | - \$25.00 |
| (c) Vending machine inspection | - \$ 4.00 each |

The foregoing fees for licenses shall be annual; licenses shall expire on January 1 of each year. (Ord. 1775 Art. III §A. Passed 12/4/62; Ord. 3576 - Passed 11/9/93.)

1117.10 SPOILED, ADULTERATED OR MISBRANDED FOOD.

(a) No person within the City shall sell, offer or expose for sale in a vending machine, or have in possession with intent to sell from vending machines, any food, beverage or ingredient which is adulterated or misbranded.

(b) Samples of food, beverages or ingredients may be taken and examined by the Bureau of Health as often as it is deemed necessary to determine freedom from adulteration or misbranding.

The Bureau of Health may, on written notice to the operator, impound and forbid the sale of any food or beverage which is adulterated. After the operator has been given an opportunity for a hearing, the Bureau of Health may cause to be removed or destroyed any food or beverage which is adulterated or misbranded. However, in The case of misbranding which can be corrected by proper labeling, such food or beverage may be released to the operator for correct labeling under the supervision of the Bureau of Health. (Ord. 1775 Art. IV §A and B. Passed 12/4/62.)

1117.11 INSPECTION OF VENDING MACHINES AND COMMISSARIES.

(a) The Bureau of Health shall inspect the servicing, maintenance and operation of vending machines dispensing readily perishable foods and commissaries annually. Vending machines dispensing other than readily perishable foods may be inspected by the Bureau of Health as often as it deems necessary. (Ord. 4017 - Passed 7/5/00)

(b) The Bureau of Health, after proper identification, shall be permitted to enter at any reasonable time upon any private or public property within the City where vending machines or commissaries are operated, or from which such machines are otherwise serviced, for the purpose of examination and inspection to determine compliance with the provisions of this Article. The operator shall make provisions for the Bureau of Health to have access, either in company with an employee or otherwise, to the interior of all vending machines operated by him. (Ord. 1775 Art. V §A and B. Passed 12/4/62.)

1117.12 VIOLATIONS.

When the Bureau of Health discovers a violation of any provisions of this Article, it shall notify the operator concerned. Such notice shall:

(a) Identify the commissary or machine where violation of this Article was found;

(b) State which section of this Article was violated;

(c) Either allow a reasonable time for the correction of the conditions which were in violation of this Article or, when the condition involves a substantial or immediate hazard to the public health, immediately discontinue the operation of such commissary or machine;

(d) Inform the operator of his right to a hearing if he files a written request for a hearing within ten days after receipt of notice of violation from the Bureau of Health;

(e) Notify the operator that unless the violations are corrected the license issued under the provisions of this Article may be suspended or revoked in accordance with the provisions of Section 1117.07, or court action may be instituted. (Ord. 1775 Art. V §C. Passed 12/4/62.)

1117.13 SANITATION REQUIREMENTS FOR VENDING MACHINE OPERATIONS.

(a) Source of Food. Food, beverages and ingredients intended for sale through vending machines shall be obtained from sources complying with the regulations of the Bureau of Health and with other applicable State and Federal laws and regulations. Such products shall be clean, wholesome, free from spoilage and shall be processed, prepared, handled and stored in such a manner as to be protected against contamination and adulteration. All products, contact surfaces of containers and equipment shall be protected from contamination.

(b) Machine Location and Cleanliness. The machine locations shall be such as to minimize the potential of contamination of the products and shall be easily cleanable and shall be kept clean.

(c) Exterior Construct/on of Machines. The exterior construction of the vending machines shall be kept clean. Service connections shall be such as to protect against unintentional or accidental interruption of service to the machine.

(d) Interior Construction of Machines. All interior surfaces and component parts of the vending machine shall be designed and constructed so as to permit easy cleaning and shall be kept clean.

(e) Approved Sanitary Water. Water used in vending machines shall be from an approved source and shall be safe and of a sanitary quality.

(f) Waste Disposal. All waste shall be properly disposed of and, pending disposition, shall be kept in suitable containers so as to prevent creating a nuisance.

(g) Perishable Food and Beverages in Transit and in Vending Machines. Foods, beverages and ingredients, and product contact surfaces of containers, equipment and supplies shall be protected from contamination while in transit to machine location and within vending machines. All food and beverages shall be stored or packaged in clean protective containers, and shall be handled, transported and vended in a sanitary manner. Readily perishable food and beverages while in transit and within vending machines shall be maintained at a temperature of 45 degrees Fahrenheit, or lower if it is necessary to preserve by refrigeration, or higher than 150 degrees Fahrenheit if the food or beverage has been prepared by heating and is in danger of pathogenic bacteria growth, whichever is applicable. Vending machines dispensing perishable food and beverages shall be provided with one or more thermometers which, to an accuracy of +2 degrees Fahrenheit, indicates the air temperature of the warmest part of the refrigerated food storage compartment, or the coolest part of the heated food storage compartment, whichever is applicable. (Ord. 4017 - Passed 7/5/00)

(h) Precautions Against Communicable Disease. No employee with any disease in a communicable form, or who is a carrier of such disease, shall work in any commissary or in any vending machine operation in any capacity which brings him into contact with the production, handling, storage or transportation of foods, beverages, ingredients or equipment used in vending machine operations. No operator shall employ in any such capacity any such person, or any person suspected of having any disease in a communicable form, or of being a carrier of such disease. Any employee who has a discharging or infected wound, sore or lesion on hands, arms or any exposed portion of the body shall be excluded from those operations which will bring him into contact with food, beverages, utensils or equipment used in vending machine operations. Any operator among whose employees there occurs a communicable disease or who suspects that any employee has contracted any disease in a communicable form or who has become a carrier of such disease, shall notify the Bureau of Health immediately.

(i) Procedure of Bureau for Preventing Infection. When suspicion arises as to the possibility of transmission of infection from any employee, the Bureau of Health is authorized to require any or all of the following measures:

- (1) The immediate exclusion of the employee from all commissary and vending machine operation;
- (2) The immediate closing of the commissaries and operations concerned until, in the opinion of the Bureau, no further danger of disease outbreak exists;
- (3) Adequate medical examination of the employee and his associates with such laboratory examinations as may be necessary.

(j) Commissaries Outside City Limits. When commissaries are located outside the City and the jurisdiction of the Bureau of Health, food, beverages and ingredients from such commissary may be sold within the City if such commissary conforms to the provisions of the Sanitation Regulations of the City, or to substantially equivalent provisions. In order to determine the extent of compliance with such provisions, the Bureau may accept reports from a responsible authority in the jurisdiction where the commissaries are located. (Ord. 1775 Art. VI § A-J. Passed 12/4/62.)

1117.99 PENALTY.

Any person who violates any provision of this Article shall be subject to the following penalties:

- (a) First violation - A fine of \$200.00, or thirty days imprisonment, or both;
- (b) Second violation - A fine of \$500.00, or sixty days imprisonment, or both;
- (c) Third and each subsequent violation - A fine of \$1,000.00, or ninety days imprisonment, or both. (Ord. 3038. Passed 10/22/85; Ord. 3242. Passed 2/7/89.)